

IN THE UNITED STATES DISTRICT COURT  
FOR THE NOTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 1: 15 CR 445
	)	
Plaintiff,	)	JUDGE: BOYKO
	)	
-vs-	)	<b><u>REQUEST FOR DISCOVERY</u></b>
	)	
OMAR ABDELQADER, et al.,	)	
	)	
Defendants.	)	

I hereby request that you send or make available to my office, all discovery in the above-captioned case. This request encompasses all information discoverable pursuant to Rule 16 of the Federal Rules of Criminal Procedure (hereinafter F.R.C.P.). Specifically, this request includes, but is not limited to:

A] **F.R.C.P. 16**

1] **Statements of the Defendant:**

**Written or Recorded Statements.** Any and all written or recorded statements made by the Defendant (or copies thereof) within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known. As well as that portion of any written record containing the substance of any relevant oral statement made by the Defendant whether before or after arrest in response to interrogation by any person then known to the Defendant to

be a government agent regardless of whether the government intends to use same at trial.

**Oral Statements.** The substance of any and all oral statements made by the Defendant whether before or after interrogation by any person then known by the Defendant to be a government agent that the government intends to use at trial regardless of whether the statement is recorded. See Rule 16(a)(1)(A). This request also includes the substance of the Defendant=s response to Miranda warnings. See *United States v. McElroy*, 697 F.2d 459, 465 (2<sup>nd</sup> Cir. 1982). (Reversal of Defendant=s conviction where the government failed to inform the defense that the Defendant invoked her rights.)

This request would include an agent=s summary of the Defendant=s statement in a report and/or rough notes if they include the Defendant=s statement. See *United States v. Johnson*, 525 F.2d 999 (2<sup>nd</sup> Cir.) cert. denied, 424 U.S. 920 (1976). This request is not limited to statements which the government intends to introduce at trial. But rather, any statement the government intends to use at trial including as impeachment.

**2] Defendant=s Prior Record:**

A copy of the Defendant=s prior criminal record within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known to your office. This request would include the Defendant=s entire criminal record, including all offenses regardless of the severity, known to the government or by the exercise of due diligence may become known. See Rule 16(a)(1)(B). This request would include discovery of all matters known to the government, or that may become known with due diligence, that may affect the Defendant=s criminal history score pursuant to U.S.S.G. Chapter 4.

**3] Documents and Tangible Objects:**

The inspection, copying, or photographing of books, papers, documents, tangible objects, buildings or places or copies or portions thereof, which are within the possession, custody, or control of

the government, and which are material to the preparation of the Defendant's defense or are intended for use by the government as evidence in chief at trial, or were obtained from or belong to the Defendant.

See Rule 16(A)(1)(C).

**4]      Reports of Examinations and Tests:**

Any and all results or reports of physical examinations and of scientific tests or experiments or copies thereof, which are within the possession, custody, or control of the government or by the existence of due diligence may become known to yourself and which are material to the preparation of the defense or are intended for use by the government as evidence in chief at trial. See Rule 16(a)(1)(D). This request entitles the Defendant to production of the results of tests such as fingerprint, handwriting, and/or drug analysis or any psychiatric examinations of the Defendant or any government witness.

**5]      Expert Witness Summary:**

A written summary of the testimony the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. This summary must describe the witnesses' opinions, the basis and the reasons therefore, and the witnesses' qualifications pursuant to Rule 16(a)(1)(E).

B] F.R.C.P. 12(d)(2)

Pursuant to Rule 12(d)(2) of the Federal Rules of Criminal Procedure, I hereby request notice of which evidence the government intends to use in its case-in-chief.

C] Brady v. Maryland

Pursuant to Brady v. Maryland, 373 U.S. 83 (1963), I hereby request that I be provided with any exculpatory material which exists in this case relating to guilt and/or punishment. Should there be a question with regard to whether certain information constitutes Brady material, the information should be presented to the Court for view in camera to determine whether it should be produced.

D] JENCKS

Pursuant to F.R.C.P. 26.2, I would request pretrial production of Jencks material. If pretrial Jencks is produced by the government, the Defendant is willing to reciprocate in kind.

E] 404(b)

Please provide me with notice of any evidence which you intend to introduce pursuant to Federal Rule of Evidence 404(b).

F] MISCELLANEOUS

Please advise all investigating officers in this case that they should not initiate any further contact with the Defendant, and that any communication intended for the Defendant be made through me. All Government agents should be further directed to preserve all of their rough notes.

Please send the above-requested discovery to me as soon as possible, and/or notify me if other arrangements need be made. With respect to the inspection of physical evidence, please let me know when such evidence is available so that I may make arrangements to inspect it. This discovery request is a continuing request. See Rule 16(C). Please notify me immediately as additional material becomes available.

**Respectfully submitted,**

**/s/ KIRK A. MIGDAL**

**KIRK A. MIGDAL (0054878)**

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